

To: Manzanilla, Enrique[Manzanilla.Enrique@epa.gov]; Hillenbrand, John[Hillenbrand.John@epa.gov]
From: Strauss, Alexis
Sent: Wed 8/12/2015 4:21:50 PM
Subject: FW: Update on Mt. Polley Follow Up

Are we still able to respond to R10 this week?
Thx, Alexis

From: McLerran, Dennis
Sent: Wednesday, August 12, 2015 8:00 AM
To: Fritz, Matthew
Cc: Breen, Barry; Kopocis, Ken; Stanislaus, Mathy; McGrath, Shaun; Blumenfeld, Jared; Giles-AA, Cynthia; Soderlund, Dianne; Pirzadeh, Michelle; Dunbar, Bill; Holsman, Marianne; Nishida, Jane; Albright, Rick
Subject: Update on Mt. Polley Follow Up

Matt:

I am touching base on the work we have been doing on Mt. Polley follow up as requested. I expect that this may take a different turn after the Gold King incident in Region 8 but wanted to respond to your note about briefing the Administrator on our progress. I had the third in a pretty thoughtful set of discussions with the Region 10 mining team yesterday afternoon about risks from mines and it seems that there may be greater risks from legacy mining sites on federal and state lands than just risk from tailings dams at operating mines similar to Mt. Polley. I expect this has been the topic of a lot of discussion this week, but the picture my team presented is that there are literally thousands of legacy mine sites that pose risks to waters and communities downstream that have not been addressed by the federal and state agencies and private land owners where they are sited. Assessing what to do about that set of risks and responsibilities is a much larger project than we have embarked on in just following up on Mt. Polley like sites. So, I expect the Administrator is going to want us to assess post Gold King what the landscape looks like for that and that would appropriately involve BLM and the Forest Service where a lot of these sites exist. There are likely many former coal mining sites that pose risks as well outside the three Western Regions where we have been doing an inventory. In addition, as I understand it (and Mathy and Barry can correct this if I'm wrong), the 108(b) discussions really only address what should be done on financial assurance for new and expanded sites and the greater risk is probably with legacy sites.

That being said, the work we have started on the Mt. Polley follow up is to ask Regions 8, 9 and 10 to inventory sites with tailings storage facilities similar to the one that failed at Mt. Polley. Regions 8 and 10 have completed their inventories and Region 9 was planning to have theirs completed this week before the Gold King incident occurred. I don't know if that will delay the Region 9 inventory but I expect it will be completed soon. The inventory in Region 10 is relatively small with only 5 sites similar to Mt. Polley identified. The inventory in Region 8 is significantly larger and we expect the Region 9 inventory to be fairly large as well. Once the inventories were complete we planned to set up a call with Ken and Barry and the 3 Regional Administrators to strategize on next steps including whether to expand the inventory to the remaining Regions and what a follow up in collaboration with states might look like. Some states have already done some follow up work independently like Alaska and Montana.

Beyond the issue of addressing existing tailings facilities, however, is what we should be doing for mines in the permitting and NEPA process right now in the US and also in permitting processes for mines in Canada adjoining our boundaries. The Canadian Mt. Polley follow up assessment panel recommended putting new Best Available Technologies for tailings handling into place which included greater use of dry stack tailings instead of traditional wet storage behind tailings dams. This technique is in place at mines like Greens Creek in Alaska and is being considered in the NEPA process for Donlin Gold in Alaska as well. As you probably know, financial assurance discussions with BLM and the Forest Service in the NEPA process for new mines and mine expansions have been difficult at best with EPA recommending financial assurance be addressed in the Draft EIs and the other agencies arguing it is best handled post NEPA. We also have the opportunity in the permitting process for US mines to suggest use of dry stack tailings methods and other best available technologies, but we are not often the final decision maker with delegated programs making permitting decisions and other federal agencies often being the NEPA lead agency. Sometimes the lead federal agency for permitting is the Corps but often it is BLM or the Forest Service. We are then in the role of commenters on the EISs for the projects. For Canadian mines across the border that impact drainages into the US we have established solid communications and are participating in the Canadian environmental review and permitting processes but have no real leverage on their decisions.

How to best proceed on both the work we have been initiating post Mt. Polley and now deciding what we should be doing post Gold King are discussions we should definitely be having as we enter into our final year. This does overlap a bit with the 108(b) issue, but certainly not completely. I would suggest we have a follow up discussion set with at least Ken and Mathy's offices soon and I would include Cynthia's shop in at least the NEPA discussion and Jane's shop in the cross border issues. As you know, I will be in Alaska all next week with Stan but am happy to initiate some of the follow up on this or am happy to follow HQ's lead on this if that is what you would like as well. There is a much richer discussion needed on this than I am covering in this note, but it at least gives you a part of the landscape from one Region's perspective.

Dennis J. McLerran

Regional Administrator

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